



ERNIE FLETCHER
GOVERNOR

DEPARTMENT OF REVENUE
FINANCE AND ADMINISTRATION CABINET
200 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40620
www.kentucky.gov

ROBBIE RUDOLPH
SECRETARY

In the matter of:

[REDACTED]

Contact:

[REDACTED]

Final Ruling Number 2004-39
December 30, 2004

Denial of credit for county taxes paid in Indiana
Tax Year 2003

FINAL RULING

The Department of Revenue of the Finance and Administration Cabinet has denied your credit for Indiana county taxes paid in the amount of \$ [REDACTED].

You filed your 2003 Kentucky Individual Income Tax Return taking a total credit for taxes paid to Indiana in the amount of \$ [REDACTED] of which \$ [REDACTED] was disallowed. The \$ [REDACTED] was reported on your Indiana individual return as county tax.

The result of the adjustment increased taxable income from \$ [REDACTED] to \$ [REDACTED], and reduced the carry-forward to 2004 from \$ [REDACTED] to \$ [REDACTED]. No penalties or interest were assessed due to the overpayment resulting in the carry-forward.

At issue is the disallowance of the Indiana county tax credit in the amount of \$ [REDACTED]. Per KRS 141.070(1) which states in part:

Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment...

In your letter dated [REDACTED], 2004, you have misinterpreted this statute by stating it does not distinguish between the types of income tax paid, but merely states that a credit is allowed for income tax paid to the other state.

The plain language of the statute states a credit is for when “a resident of this state has become liable for income tax to another state....” The disallowed amount was not due to state tax but rather a county tax. The county tax was merely reported on the Indiana state income tax return for collections purposes. The tax was not due to the state of Indiana but rather a county of Indiana.

The Department’s denial of the tax credit taken in the amount of \$ [REDACTED] for the tax year in question was correct and is hereby upheld.

The foregoing constitutes the final ruling of the Department of Revenue pursuant to KRS 131.110 and 103 KAR 1:010.

APPEAL

You may appeal this ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this ruling, you must file your complaint or petition of appeal with the Clerk, Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601, within thirty (30) days from the date of this letter. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the complaint or petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. State the petitioner's position regarding the law, facts or both; and
4. Include a copy of this final ruling letter with each copy of the complaint or petition.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

December 30, 2004 – Final Ruling 2004-39

Page 3

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,
FINANCE AND ADMINISTRATION CABINET

A handwritten signature in cursive script, appearing to read "Thomas H. Brown".

THOMAS H. BROWN, Director
Division of Protest Resolution

CERTIFIED MAIL
RETURN RECEIPT REQUESTED